



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,690	04/09/2004	Alexander Kurganov	47242-00027USC1	1367

7590 07/07/2005

Steve Z Szczepanski-Kelley Drye & Warren LLP
Suite 2600
333 West Wacker Drive
Chicago, IL 60606

EXAMINER

MCFADDEN, SUSAN IRIS

ART UNIT	PAPER NUMBER
----------	--------------

2655

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,690

Applicant(s)

KURGANOV ET AL.

Examiner

Susan McFadden

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6,807,257. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both claim a computer, Internet and Telecommunications based network which comprises: a system for gathering information from information sources connected to a network by using speech commands indicating specific actions to be performed, said system comprising: a voice enabled device employed by users to communicate speech commands indicating specific actions to be performed, said speech commands comprising information requests selectable by the user; a database

Art Unit: 2655

operatively connected with a computer said database containing stored digital-form commands for operating said system, a speaker-independent speech recognition device for receiving from users said speech commands indicating specific actions to be performed, said speaker-independent speech recognition device configured to convert said speech commands to data messages, a computer operatively connected with said database and said speech recognition device and configured to match said data messages with said stored digital-form commands and configured to carry out the specific actions indicated by said speech commands, said computer further configured to search information sources connected to a network to gather information from said information sources connected to said network in response to said information requests. Claims 1 and 9 are similar to claim 9 of the US 6807257. Claim 2 is similar to claim 4. Claim 3 is similar to claim 10. Claim 5 is similar to claim 13. Claim 6 is similar to claim 12. Claim 7 is similar to claim 14. Claims 14-17 are similar to claim 15.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Perrone (6,157,705).

In regard to claim 1, Perrone shows in Figure 1 B, a system for gathering information from information sources connected to a network by using speech commands indicating specific actions to be performed, said system comprising: a voice enabled device employed by users to communicate speech commands indicating specific actions to be performed (items 2,4), said speech commands comprising information requests selectable by the user; a database operatively connected with a computer said database containing stored digital-form commands for operating said system (col. 6), a speaker-independent speech recognition device for receiving from users said speech commands indicating specific actions to be performed (item 16), said speaker-independent speech recognition device configured to convert said speech commands to data messages (col. 5-6), a computer operatively connected with said database and said speech recognition device and configured to match said data messages with said stored digital-form commands and configured to carry out the specific actions indicated by said speech commands (item 8), said computer further configured to search information sources connected to a network to gather information from said information sources connected to said network in response to said information requests (col. 5-6).

In regard to claim 2, Perrone shows that an Internet network is used (claim 19).

In regard to claim 3, Perrone shows that the information sources can be web sites (col. 20, ln 1-3).

In regard to claim 4, Perrone shows that the voice-enabled device can be a standard telephone (col. 5, Fig 1A, item 10).

Art Unit: 2655

In regard to claims 5 and 6, Perrone shows that a speaker independent speech recognizer inherently analyzes phonemes to recognize naturally spoken speech commands (col. 8, ln 4-35).

In regard to claim 7, Perrone show a database that contains a list of information sources connected to the network that can be searched (col. 9, ln 53-60).

In regard to claims 14-17, Perrone shows that information gathered by said system from said information sources in response to said information requests is stored by said database and processed by said computer into a message, said system further configured to transmit said message to said voice enabled device or such other destination as designated by said user (col. 9, ln 1-10), which can be an audio message inherently output from a speech synthesis engine configured to create said audio message (Fig. 1B, item 14), which inherently comprises a pre-recorded audio concatenation application configured to create said audio message.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perrone (cited above).

In regard to claims 8-13, Perrone show the system discussed above. They do not specifically show that the database contains a list of information sources connected to


Art Unit: 2655

the network that can be searched, ranked, and updated. The Examiner takes Official Notice that one of ordinary skill in the art at the time of the invention would know how to store and rank information sources in a database.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan McFadden whose telephone number is 571-272-7621. The examiner can normally be reached on Monday-Friday, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Susan McFadden
Primary Examiner
Art Unit 2655

July 5, 2005